

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

TYRONE L. GARNER,

Plaintiff,

v.

ROBERT ASHCRAFT, et al.,

Defendants.

3:03-CV-0534 JCM (RAM)

Date: N/A

Time: N/A

ORDER

Presently before the court is defendant's objection (#49) to Magistrate Judge McQuaid's report and recommendation (#47) granting defendants' motion for summary judgment (#26).

Magistrate Judge McQuaid determined the following: (1) the defendants cannot be sued in their official capacity for money damages; (2) defendants Ashcraft and Neven had no personal involvement; (3) plaintiff Garner failed to state a claim because there was no actual injury; (4) the defendants' culpability did not rise to constitutional levels; and (5) the defendants are entitled to a qualified good faith immunity.

In his objection, Mr. Garner asserts that Magistrate Judge McQuaid misconstrued the very nature of his claim and further stated that he does not agree with the court's legal conclusions.

Under Local Rule IB 1-4 and 28 U.S.C. § 636(b)(1)(B), a magistrate judge shall file findings and recommendations for disposition by the district judge. The district judge "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made [and] may accept, reject, or modify, in whole or in part, the findings or


1 recommendations. . . .” 28 U.S.C. § 636(b)(1).

2 Having reviewed defendant’s objections and the magistrate judge’s report and
3 recommendation,

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Magistrate Judge
5 McQuaid’s report and recommendation (#47) be, and the same hereby are, ACCEPTED and
6 AFFIRMED in its entirety.

7 IT IS FURTHER ORDERED that the clerk of the court shall enter judgment accordingly.

8 DATED this 3rd day of March, 2006.

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11 UNITED STATES DISTRICT JUDGE
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